

1 HB116  
2 78976-1  
3 By Representative Black (M)  
4 RFD: Judiciary  
5 First Read: 10-JAN-06  
6 PFD: 01/05/2006

SYNOPSIS: Under a law enacted in 2003, the monetary amounts related to the three criminal offenses of theft of property were adjusted. Also in 2003, the crime of theft of property in the second degree required as an element in instances of prior offenses that the defendant had been previously convicted of theft of property in the first or second degree or receiving stolen property in the first or second degree.

In 2004, the references to certain types of livestock was changed in the offense of theft of property in the second degree. The 2004 act also reapplied the pre-2003 monetary amount for the crime of theft of property in the second degree, resulting in a lack of coverage for the criminal offense for a certain monetary range. The 2004 act also deleted the alternative element that the defendant had been previously convicted of receiving stolen property in the first or second degree.

1           This bill would amend the theft of property  
2           in the second degree law to restore the monetary  
3           amounts specified in 2003, resulting in total  
4           monetary coverage relating to the crime, and would  
5           restore the alternative element concerning a  
6           defendant who had been previously convicted of  
7           receiving stolen property in the first or second  
8           degree.

9           Amendment 621 of the Constitution of Alabama  
10          of 1901 prohibits a general law whose purpose or  
11          effect would be to require a new or increased  
12          expenditure of local funds from becoming effective  
13          with regard to a local governmental entity without  
14          enactment by a 2/3 vote unless: it comes within one  
15          of a number of specified exceptions; it is approved  
16          by the affected entity; or the Legislature  
17          appropriates funds, or provides a local source of  
18          revenue, to the entity for the purpose.

19          The purpose or effect of this bill would be  
20          to require a new or increased expenditure of local  
21          funds within the meaning of Amendment 621. However,  
22          the bill does not require approval of a local  
23          governmental entity or enactment by a 2/3 vote to  
24          become effective because it comes within one of the  
25          specified exceptions contained in Amendment 621.

26  
27                           A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to theft of property in the second degree;  
5 amending Section 13A-8-4 of the Code of Alabama of 1975, as  
6 last amended by Act 2004-627, to adjust the monetary range of  
7 the offense to conform with other theft of property offenses  
8 and in instances of prior offenses to restore the alternative  
9 element concerning a defendant who has been previously  
10 convicted of receiving stolen property in the first or second  
11 degree; and in connection therewith would have as its purpose  
12 or effect the requirement of a new or increased expenditure of  
13 local funds within the meaning of Amendment 621 of the  
14 Constitution of Alabama of 1901.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 13A-8-4 of the Code of Alabama  
17 1975, as last amended by Act 2004-627, is amended to read as  
18 follows:

19 "§13A-8-4.

20 "(a) The theft of property which exceeds ~~two hundred~~  
21 ~~fifty dollars (\$250)~~ five hundred dollars (\$500) in value but  
22 does not exceed ~~one thousand dollars (\$1,000)~~ two thousand  
23 five hundred dollars (\$2,500) in value, and which is not taken  
24 from the person of another, constitutes theft of property in  
25 the second degree.

26 "(b) Theft of property in the second degree is a  
27 Class C felony.

1           "(c) The theft of a credit card or a debit card,  
2           regardless of its value, constitutes theft of property in the  
3           second degree.

4           "(d) The theft of a firearm, rifle, or shotgun,  
5           regardless of its value, constitutes theft of property in the  
6           second degree.

7           "(e) The theft of any substance controlled by  
8           Chapter 2 of Title 20 or any amendments thereto, regardless of  
9           value, constitutes theft of property in the second degree.

10          "(f) The theft of any livestock which includes  
11          cattle, swine, equine or equidae, or sheep, regardless of  
12          their value, constitutes theft of property in the second  
13          degree.

14          "(g) Notwithstanding subsection (a), the theft of  
15          property which exceeds ~~one hundred dollars (\$100)~~ two hundred  
16          fifty dollars (\$250) in value but does not exceed ~~one thousand~~  
17          ~~dollars (\$1,000)~~ two thousand five hundred dollars (\$2,500) in  
18          value, and which is not taken from the person of another,  
19          where the defendant has previously been convicted of a theft  
20          of property in the first or second degree or receiving stolen  
21          property in the first or second degree, constitutes theft of  
22          property in the second degree."

23          Section 2. Although this bill would have as its  
24          purpose or effect the requirement of a new or increased  
25          expenditure of local funds, the bill is excluded from further  
26          requirements and application under Amendment 621 because the

1 bill defines a new crime or amends the definition of an  
2 existing crime.

3 Section 3. This act shall become effective  
4 immediately following its passage and approval by the  
5 Governor, or its otherwise becoming law.